

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of April 24, 2014

Members Present

Richard Freeburn
Jeff Staub
Sara Jane Cate
David Dowling
Alan Hansen
Watson Fisher

Also in Attendance

James Turner
Dianne Moran

Docket 1353

Applicant: Cellco Partnership d/b/a Verizon Wireless

Address: 4642 Jonestown Road, Suite 200
Harrisburg, Pennsylvania 17109

Property: 900 South Arlington Avenue
Harrisburg, Pennsylvania 17109

Section 306.B.1.b

A Commercial Communication Antennae/Tower is not permitted in the IN, Institutional Zoning District.

The Applicant wishes to construct a cell tower in the Institutional Zoning District on the Pennsylvania Council of Churches property located at 900 South Arlington Avenue.

Section 402.A.16.b(2)

A new tower, other than a tower on a lot of an emergency services station, shall be set back the following minimum distance from any existing dwelling: 300 feet plus the total height of the tower above the surrounding ground level.

The Applicant seeks relief to permit the monopole to be located less than three hundred and eight-five (385') (tower height + required setback) from an existing residential dwelling.

Grounds: Section 306 and 402

Fees Paid: March 31, 2014

Property Posted: April 14, 2014

The hearing began at 7:09 p.m.

Mr. James Strong distributed copies of the Exhibits for his hearing to the Board members.

Mr. Freeburn requested all persons in the audience that were present to testify for this application to please rise to be sworn in. He noted that each person would identify themselves as they provided testimony.

Mr. Freeburn noted that Dianne Moran, Planning and Zoning Officer for the Township was previously sworn in.

Mr. James Strong, Attorney with McNees Wallace and Nurick, LLC, 100 Pine Street, Harrisburg, Pennsylvania, was present on behalf of the applicant, Cellco Partnership d/b/a Verizon Wireless.

Mr. Freeburn directed the applicant to explain to the Zoning Hearing Board why the variance should be granted.

Mr. Strong noted that he has two applications that are before the Board this evening and he thought it was a good idea to file both applications at the same time since they are very similar in the relief that is being requested and for the type of facility that is being proposed.

Mr. Strong wanted to provide an overview to both applications, Docket 1353, and 1354, and noted that he would provide the testimony and exhibits that relate to that particular application.

Mr. Strong explained that Verizon Wireless is dealing with a national situation that all the major communications providers are confronted with and that is the increased proliferation of subscribers and use of phone for checking work emails, viewing You Tube videos, or finding news or scores from ESPN. He noted that the network is being used for the transfer of data and they are attempting to deal with this increase in the use of data. He explained that the estimate for the overall use is that 70% of all the traffic on the network is data traffic. He explained that he has heard numbers that globally are as high as 90%. He noted that the use of the network is predominantly used by devices that have a demand for data.

Mr. Strong noted as the networks are maturing, going back in the late 1990's and early 2000, when the idea was simply to provide coverage to as many geographic areas as possible, the idea would be to put up one large tall tower on a hill where it would cover a very large footprint. He noted that it would send a big signal out over that area as there weren't that many subscribers at that time that would be using that facility for a call. He noted that you had more powerful phones, or bag or call phones that could talk at a longer distance back to the tower.

Mr. Strong noted that the first real change was when AT&T introduced the I-Phone. He noted that it was a revolution in terms of providing access to a large number of people that had

demands for data. He noted that AT&T network, at that time, was not mature enough to handle that. He noted that all carriers are now experiencing similar issues in terms of forecasting when their sites that are currently on air will reach exhaustion. He explained that Verizon is proactive in terms of trying to address those types of issues so they don't run into exhaustion in the network and also by trying to make the network as robust as it can be.

Mr. Strong noted that Verizon Wireless has a number of existing sites in the Township and he will address for each application the existing sites that are located in each area. He noted as Verizon attempts to grow its network, it is difficult to do it with the Zoning that is currently in place in the Township. He noted that the new wireless communication towers are only permitted in the Conservation District, the area along the side of the mountain; Light Industrial District along Jonestown Road out to the central eastern part of the Township; and the General Industrial which is at the southwest corner of the Township. He noted that there is one exception to these three locations when the ordinance was amended some years back to permit a new tower on a public utility sub-station in an R-1 District. He noted within this construct, Verizon is trying to address the needs for network, but Verizon will look for any opportunities to attach their antennas to an existing structure.

Mr. Strong noted once an objective is identified, a site acquisition consultant is retained to find a candidate location where they can install their antennas and address their objectives. He noted that the first goal is to find an existing tall structure where they can attach their antennas, and the zoning ordinance encourages that. He noted as long as you meet the requirements you can attach an antenna to an existing structure throughout the Township. He noted where you run into a problem is when you don't have any existing tall structures in the area where you are trying to provide service and you need to build a new structure.

Mr. Strong noted that Verizon Wireless is proposing a new tower site at 900 South Arlington Avenue, in an Institutional District. He noted that it is owned by the Pennsylvania Council of Churches, and runs parallel to Interstate 83. He noted that the Osteopathic Hospital is located in that area and a number of medical offices as well. He noted that Verizon is proposing a unique facility for this area.

Mr. Strong explained that Verizon is proposing an 80-foot tall monopole that is disguised to look like a tree. He explained that he had photo simulations that would show you what it would look like if it was actually constructed. He noted that it would be a short tower, 80 feet tall and it will be disguised to look like a pine tree. He noted that the idea is to address the objective using the least obtrusive and most aesthetical approach possible.

Mr. Strong explained that the second application is also for an 80-foot tall tree pole and that site is located along I-81 and he will address that application next. He noted that application is for a site located in an R-1 District. He noted that location is also located along the interstate that has a sound wall that would be between the proposed site and the adjoining R-1 Residential area to the east. He noted if that tower is constructed, no one will even know it is there.

Mr. Strong noted to concentrate on the South Arlington Avenue location; it is not possible to locate a site in the General Industrial District to address the objective for this site. He noted that the Radio Frequency Engineer will show that there is an existing site and a proposed site in this area. He noted that one proposed site on Briarsdale Road is an existing AT&T Tower where Verizon is going to co-locate their antennas to provide service from that location. He noted that Verizon also has an existing facility in the property marked as the Institutional District at a location exiting I-83 at Union Deposit Road heading east, on a large five-story building off the interchange on the roof. He noted when you talk about where the use is permitted in the Township, he is proposing a facility that is in the General Industrial District but he also needs another facility in the area that we are asking for the variance. He noted that it is not possible to build a new tower site in the zoning district where it is needed to meet the objectives for this site. He noted that is why he is before the Board this evening to request a variance to permit the use in the Institutional District.

Mr. Strong noted in regards to the second part of the application, he had a copy of the current Zoning Map that was provided as part of the Exhibits to the Board. He noted in the center of the plan. A fairly long and narrow lot that is adjacent to I-83 on Arlington Avenue, by Londonderry Road. He noted that access to the proposed facility would be from South Arlington Avenue through the existing parking lot that is on the property. He noted that Verizon is leasing a 100-foot by 100-foot area, 10,000 square feet in total, on the property for the proposed facility. He noted that that lease area has within it a 50-foot by 50-foot fenced compound. He noted that all of Verizon's improvements will be within the fenced compound and it will be surrounded by evergreen plantings that are required by the ordinance. He noted that the tower would be located within the compound noting that a five-foot lighting rod would be located on top of the 80 foot pole. He noted that the total structure height would be 85 feet. He noted that the antennas would be attached at the centerline elevation of 80 feet and the branches would surround the antennas and they would not be readily apparent for someone to see who is viewing the facility.

Mr. Strong stated that the second variance request is in regards to the ordinance requirement that the cell tower must sit back a distance of 300 feet plus the height of the tower from any existing residential dwelling. He noted that the area along I-83 and other commercial and professional office uses to the east are okay, but the property to the north has a residential dwelling on the property. He noted that the distance from the tower to that property is 331 feet; less than the required 385 feet. He noted that we are talking a distance of 331 feet for what is only an 80 foot tree pole, not much taller than a utility pole that would be located in the street right-of-way. He noted those are the two variance requests for this application and a general overview of what is proposed and why. He noted if there are no questions for him he would proceed with introducing the witnesses and exhibits.

Mr. Dowling questioned if Mr. Strong made any effort to determine whether an antenna was viable on the hospital roof. Mr. Strong answered that the Radio Frequency Engineer and Site Acquisition consultant will be able to answer that.

Mrs. Cate questioned Mr. Strong if he has spoken to the resident of the home. Mr. Strong answered that he has not and Mr. Paul Devlin stated that he did not either.

Paul Devlin, 3811 Market Street, Campy Hill, Pennsylvania, 17011 explained he is with New Find Business Technologies, a firm that does the consulting work for clients for when Verizon wants to build a new site. He noted his firm will go out to the area and looks for certain properties that would be feasible. Verizon then review those sites to see what would work best for their needs.

Mr. Strong questioned if Mr. Devlin undertook that process that resulted in the proposed facility that is before the Board today for approval. Mr. Devlin answered yes.

Mr. Strong requested Mr. Devlin to describe the area surrounding the property and the property itself and how it will be used and answer the question about the hospital. Mr. Devlin answered that the property is owned by the Pennsylvania Council of Churches, where they have their offices. He noted that there is also a parking lot and a field in the back area. He noted that the area is mostly surrounded by businesses, with a hospital located nearby. He explained that he approached the hospital and they were not interested in putting a tower on their property or putting antennas on top of the roof top.

Mr. Strong questioned if Verizon Wireless has received authorization from the owner of the property to file any necessary land use permits or other applications for necessary approvals. Mr. Devlin answered yes. Mr. Strong noted that he is showing Mr. Devlin what is marked as Applicant's Exhibit A-1, and he questioned if that was a copy of the authorization letter. Mr. Devlin answered yes.

Mr. Strong questioned if Mr. Devlin was familiar with the zoning plan that was filed with the variance application with the Township. Mr. Devlin answered yes. Mr. Strong noted that he is showing Mr. Devlin what is marked as Applicant's Exhibit A-2, and questioned if that was a copy of the zoning plan that was filed. Mr. Devlin answered yes.

Mr. Strong noted that there is a copy of the plan on the easel and he requested Mr. Devlin to walk the Board through what Verizon Wireless is proposing to do on this property. Mr. Devlin noted that Verizon is proposing to build a cell site at this location, a tower that will be disguised as a stealth monopole tower that will be 80 feet tall with a five-foot lighting rod. He noted that the overall area will be 100 feet by 100 feet and the fenced in area will be 50 feet by 50 feet, using a chain linked fence that will be eight feet high with landscaping that will screen using four-foot high evergreens. Mr. Freeburn questioned if the trees to be planted will be four feet in height. Mr. Devlin answered yes. Mr. Freeburn questioned how many trees will be planted. Mr. Matt Shradley answered that the trees are spaced eight feet apart.

Mr. Freeburn requested Mr. Shradley to identify himself. Mr. Matt Shradley explained that he is a Site Engineer working for Rettew Associates located at 5031 Richard Lane, Suite 111, Mechanicsburg, Pennsylvania.

Mr. Strong noted that Applicant's Exhibit A-3 is an aerial exhibit prepared by Rettew Associates. Mr. Devlin answered that was correct. Mr. Strong asked Mr. Devlin to explain what is on this exhibit. Mr. Devlin noted that it shows the area around the site, the distances to the

hospital, and where the residence is located as well. He noted that it is showing the site behind the offices of the Pennsylvania Council of Churches.

Mr. Strong questioned what other surroundings uses are in that neighborhood. Mr. Devlin answered that there are mostly businesses, churches, hospital, and residences. Mr. Strong questioned if there are medial offices in the area. Mr. Devlin answered yes. Mr. Strong questioned what is located on the west side of I-83. Mr. Devlin answered that there are commercial buildings.

Mr. Strong questioned as part of the process when Mr. Devlin was retained by Verizon Wireless to locate a new site for them to address the objectives addressed to him, if he initially looked for a tall structure that might be suitable for attaching antennas as opposed to getting a new tower. Mr. Devlin answered yes. Mr. Strong questioned Mr. Devlin if he was able to identify any tall structures in the area to develop a new site. Mr. Devlin answered the hospital and they were not interested.

Mr. Strong noted that he discussed the required setback in Section 402.A.16.b.2 which requires that a communications tower be set back a distance of 300 feet plus the height of the tower from an existing dwelling. He questioned if Verizon Wireless is requesting a variance from that setback given the location of the tower relative to the residential property that adjoins to the north. Mr. Devlin answered yes. Mr. Strong questioned if the distance to that dwelling from the tower is 331 feet. Mr. Devlin answered yes. Mr. Strong questioned if Verizon is 54 feet short of the required setback distance. Mr. Devlin answered yes.

Mr. Strong noted in terms of the site itself, is it fully automated. Mr. Devlin answered yes.

Mr. Strong questioned if there were any other uses associated with it such as maintenance facilities, storage yard, or anything else along those lines. Mr. Devlin answered no. Mr. Strong noted in terms of visits to the site, how often someone will be on premises at the site. Mr. Devlin answered once or twice a month. Mr. Strong questioned if that is just for routine maintenance, checking out equipment and the like. Mr. Devlin answered yes. Mr. Strong questioned if the shelter is unmanned. Mr. Devlin answered yes.

Mr. Strong noted that Applicant Exhibit A-4 is a copy of the Townships' zoning map, is that correct. Mr. Devlin answered yes. Mr. Strong noted in the opening remarks he discussed the districts where the use is permitted being General Industrial, Light Industrial and the Conservation or public utility station in the R-1 District. He questioned if Mr. Devlin would address the objectives that Verizon Wireless has for this site by constructing a new tower in one of the districts where the use is permitted. Mr. Devlin answered that it didn't work.

Mr. Strong noted that the ordinance requires that the applicant provide a written description of the applicant's policies for the use of the tower by other communications providers; he showed Applicant's Exhibit A-5 and requested Mr. Devlin to identify that exhibit and discuss the co-location policy by other service providers. Mr. Devlin answered that he was looking at the Verizon Wireless co-location policy and it basically states if any other carrier such

as AT&T or T-Mobile or Sprint wanted to co-locate that Verizon would allow them to do so. Mr. Strong questioned if Verizon Wireless has in the past signed a master lease agreement with all of those other providers to facilitate co-location on towers by the different providers. Mr. Devlin answered yes. Mr. Strong questioned if this tower would be available to other service providers to attach their antennas under the terms of the master lease agreement. Mr. Devlin answered yes.

Mr. Strong noted that the type of tower proposed is an 80-foot stealth pole, if questioned Mr. Devlin if in his opinion will that type of tower be a design that would minimize its visual intrusiveness and environmental impacts to the maximum extend feasible. Mr. Devlin answered that it would.

Mr. Strong noted that Applicant's Exhibit A-6 contains photo simulations prepared by Rettew Associates. He requested Mr. Devlin to identify what is depicted in those photo simulations. Mr. Devlin explained that it shows what the tower looks like with the landscaping and the stealth monopole. Mr. Strong questioned if the antennas would be located at the top of the tower and it would be disguised by the proposed branches of the stealth tree pole. Mr. Devlin answered yes.

Mr. Strong questioned if all the photo simulations were taken from the northern end of the property looking to the south or southwest. Mr. Devlin answered yes.

Mr. Strong questioned if the proposed landscaping that was also depicted will surround the compound. Mr. Devlin answered yes.

Mr. Dowling questioned how long Verizon has been using the stealth poles, where do they use them, and do other providers use them as well. Mr. Strong answered that the tree poles are not typically been used in this area. He noted that flagpoles have been used with the antennas located inside the pole so they are not visible and there are a number of those around. He noted in terms of tree poles that is not something that has been done in this area, but the farther east you will see them along the Pennsylvania Turnpike. He noted that there is a new one in this area, east of Harrisburg High School at the Pennbrook Maintenance Facility. Mr. Dowling noted that he saw it the other day and questioned if it was one of Verizon's. Mr. Strong answered that it is but he did not work on that site. He noted that it is his understanding that that tower is approximately 120 feet tall, almost 50% taller than this tower would be. Mr. Dowling questioned if the similarity to the tree is very close in that one to what you are proposing for this site. Mr. Strong answered yes noting that Verizon will dictate that the tree branches be taken down to a height of 40 feet above ground level. He noted that sometimes with a tree pole they only install branches at the top where the antennas are located and they look silly. He noted that Verizon designs the tree poles so that the tree branches will be carried down all the way to a height of 40 feet above ground level. He noted that it would have more of an appearance of a tree.

Mr. Dowling questioned when Verizon decides to use the tree poles. Mr. Strong answered that historically, the type of facility that Verizon was proposing was the standard monopole. He noted that they were able to address most of their objectives either by attaching to

an existing structure or proposing a new tower where the use is permitted. He noted that they are finding that the needs are in such narrowly defined geographic areas that they are confronted with having to put facilities where the use is not permitted such as the two applications that he is dealing with tonight. He noted in an effort to make it a more aesthetically pleasing installation they are proposing tree poles, where in the past it is not something they had to do. He noted that there is a flagpole in the cemetery in Paxtang Borough and one on the other side of Jonestown Road, a T-Mobile flagpole. He noted with some of the shorter towers, historically, the towers were 150 to 190 feet tall, but with the areas that we serve and those needs, they are able to use shorter towers and it is more conducive to a tree pole as well. He noted that given the areas that they need to be in, they have used water towers, smoke stacks, church steeples, and he say one recently that was a fake religious statue on the top of the church so you would never know that it was there. He noted that there have been stealth installations near the Gettysburg Battlefield. He noted that the Pennsylvania Historic Museum Commission has identified areas as having historic significance and they can work through that if they stealth the facility. He noted that it is a new type of facility for this area. He explained that they are building one in the City of Harrisburg, a mono Oak Tree that was required by the Pennsylvania Historic Museum Commission.

Mr. Strong noted in the Zoning Ordinance, Section 402.A.16.E, there are certain tower removal requirements and he questioned if Verizon Wireless will comply with them if the application is approved and the facility is constructed. Mr. Devlin answered yes.

Mr. Freeburn questioned if Mr. Strong would have more witnesses. Mr. Strong answered that he has three more witnesses. Mr. Freeburn questioned if they would be covering the same information that was already provided. Mr. Strong answered that he would streamline it to avoid retreading the same ground. He noted that the last witness is the structural engineer who can discuss the design of the tower, with the next to last witness being a radio frequency engineer who will explain the objectives for this site and how it will address those objectives. Mr. Freeburn noted that you could ask them if they heard Mr. Strong's statement and if they agree with it and add to it whatever is needed. Mr. Strong agreed.

Max Shradley explained that he works for Rettew Associates, a consulting engineering firm that resides at 5031 Richard Lane, Suite 111, Mechanicsburg.

Mr. Strong noted that the Ordinance requires that all towers be set back a distance equal to their height at a minimum from all lot lines and street right-of-ways. He questioned if the location of this proposed tower complies with that setback requirement. Mr. Shradley answered that it does. Mr. Strong noted that we have discussed the 385 foot setback requirement and identified the existing dwelling to the north as being too close. Mr. Strong questioned if there were any other existing dwellings located within that required 385 foot setback distance or is it just the one that we have identified. Mr. Shradley answered that would be the only residential unit.

Mr. Strong questioned if the ordinance limits the height of towers to 150 feet and if we are only proposing an 80 foot tower, is that correct. Mr. Shradley answered that was correct. Mr. Strong noted that the ordinance also limits the total floor area of equipment buildings at the

facility to 400 square feet. He noted since this would be the first equipment shelter installed, will it comply with that requirement. Mr. Shradley answered yes, noting that the equipment shelter is 11.5 feet by 16 feet this is 184 square feet. Mr. Strong questioned if the shelter complies with the maximum permitted height requirement in applicable setbacks for a principal building in the Institutional District. Mr. Shradley answered yes.

Mr. Strong noted for the proposed generator, please refer to the plan and identify the location of the proposed generator using Applicant's Exhibit A-7 and explain if the generator will comply with the maximum permitted sound level set forth in Section 505.A of the Zoning Ordinance. Mr. Shradley explained if you look at the compound site plan, the generator is shown on the eastern side of the 50 foot compound next to the patio that sticks out. He noted that it is the pad that includes the generator. He noted that it is located on the southern side of the shelter towards the property owner's facility and the opposite side of the residential unit. Mr. Strong questioned if a sound study was performed by the supplier of the generator that Verizon Wireless will be installing. Mr. Shradley answered yes. Mr. Strong questioned what the sound study stated in terms of what the anticipated sound level would be for this generator. Mr. Shradley answered that the average sound level at 7 meters, which is approximately 23 feet from the generator itself is listed at 52.7 decibels. Mr. Strong noted that the proposed equipment shelter will be located somewhat between the generator and the residential property to the north. Mr. Shradley answered yes.

Mr. Strong noted that the ordinance requires that the minimum sound level is 55 decibels at the lot line. He questioned if this will comply with the requirement. Mr. Shradley answered yes. He noted at 23 feet from the generator, it would be less than the required 55 decibels; the closest residential unit is 300 feet away and the sound would decrease as it moves away from the generator.

Mr. Strong questioned if he would also anticipate that there would be a substantial sound level that would be generated from I-83 on a constant basis. Mr. Shradley answered that the background ambient sound from I-83 which is only 90 feet from the tower, to include the traffic and truck noise, would be a significant sound level that would impact the residential neighbors. Mr. Strong noted even if you took out all the ambient background noise, the anticipated sound level from this generator would be well below what the ordinance permits. Mr. Shradley answered that it would be less than 55 decibels.

Mr. Turner questioned if the generator is only there for emergency back up services. Mr. Shradley answered that it is there for emergency back up but they do exercise it once a week, typically on a Wednesday morning, but he is not sure of the exact schedule, sometime around 8 or 9 o'clock in the morning. He explained that they run it for about an hour every week to ensure that it works. He noted that it is triggered remotely.

Mr. Andrew Petersohn, 3230 Waterstreet Road, Collegeville, Pennsylvania, noted that he is the Verizon Radio Frequency Design Representative. He explained that he has been involved in the design of these types of facilities for a radio frequency perspective for about 15 years, designing hundreds of them and has been called as an expert witness in hundreds of proceedings like this.

Mr. Strong requested Mr. Petersohn to explain his educational background. Mr. Petersohn explained that he has an undergraduate and graduate degree in Electrical Engineering, from Lehigh University and is a registered professional engineer in the Commonwealth of Pennsylvania, as well as in a handful of surrounding states. He noted that he has been accepted as an expert witness before municipal bodies like this one, and in State and Federal Courts as well.

Mr. Strong questioned if he was present when he provided his introductory comments about the site and what the objectives are and the difficulties with the zoning as currently constructed. Mr. Petersohn answered yes. Mr. Strong noted without treading over the same information he requested Mr. Petersohn to look at Applicant's Exhibit A-8 requesting him to explain the design objectives for this site and how it fits into the surrounding neighboring sites and the difficulties that Verizon Wireless has in addressing those objectives with the ordinance as it is currently written. Mr. Petersohn answered that the exhibit is a copy of the Radio Frequency Design Analysis that he prepared and in the report on pages two and three there are some maps. He noted that the first map shows the existing coverage. He noted that it is a map that shows roadways and the Township boundaries, he also overlaid information from Verizon Wireless to include the black dots that represent the existing and proposed facility as well as the planned facility for the area. He noted that there are several facilities that are serving the area that surrounds the location of the proposed facilities. He noted that the two closest are the Penbrook and Jonestown Road facility.

Mr. Petersohn explained that the Penbrook facility is a rooftop model located at 1051 Avila Road. He noted that his primary objective is to off load the Penbrook site. He noted that all the commercial wireless service providers have been hit with a tsunami of data. He **explained that** he read that it was calculated from the most densely populated areas in the world, that the data usage for networks is 98% of the network traffic. He noted when you get into the more rural areas, the number will come down. He explained, the demand on networks is coming out of residences, businesses, industrial areas, anywhere where subscribers are using data. He noted the subscribers expect the data to be fast and alive. He noted that it is almost an unquenchable thirst for services and speed.

Mr. Petersohn noted in this area we have the Penbrook and Jonestown Road facilities. He noted that they are fast approaching exhaustion, and by the middle of 2015, both facilities will be at their exhaustion point.

Mr. Dowling questioned what happens when you reach that point. Mr. Petersohn answered that initially it would manifest itself as a slow down in data services. He noted that the occasional slow down during a busy hour will lead to a constant slow down and it will then turn into a denial of service for data services and it would then move to voice service and then you get into issues of public safety as 911 calls could potentially be blocked down the road. He noted if left unaddressed those types of things are not a great concern but what is a great concern is the liability for more important services. He noted that it is a matter of perspective and Verizon wants to make all their subscribers happy.

Mr. Hansen questioned what determines what signal goes to what tower and can it be bounced to another tower. Mr. Petersohn answered that it is largely determined by proximity, noting that you normally will be served by the tower that is closest to you. He noted that you have probably seen coverage maps in the past that have a donut hole where there is no service and the service surrounding the donut hole is where the radio frequency engineers need to fill that coverage gap.

Mr. Petersohn noted that he can illustrate that by using the best server coverage map. He noted that the geography is broken into the different shades of pie-like wedges. He noted if you image that only Penbrook and Jonestown Road are in play, Penbrook is surrounded by three pie shape wedges of coverage emanating from antenna on the rooftop, one of each facing in all four directions. He noted that the coverage area from the northern section is highlighted in pink, so it is the area where a subscriber will be served best by the two existing facilities. He noted that it is largely based upon proximity. He noted if someone would be in the northeast section of this exhibit, they would not be served by the Penbrook site, as they would be picked up by another facility that is off the map. He noted that terrain is the biggest attenuator of energy if there is a mountain between you and the antenna, the device will not work and it may be served by another antenna that may be more distant from you. He noted that there are other factors as well.

Mr. Petersohn noted when he is faced with facilities that are heading towards exhaustion, he looks to off load the traffic by splitting the geography into smaller pieces by inserting a new facility, to provide for more service for the overall network. He noted that the PRISM site, the name for the proposed facility, is intended to off load the northern base sector for the Penbrook site and also to provide some in building service to the hospital complex. He noted that the hospital complex is made up largely of glass and steel set of buildings that are very hard to penetrate from a radio frequency perspective. He noted that his objective is two fold, off load the Penbrook site and provide a facility that is close enough to the hospital complex and off load the capacity demand that is coming from inside the hospital as well as providing a higher level for in-building service.

Mr. Turner noted, for the record, when you refer to the Penbrook facility is located on the Old Villa Teresa building on Avila Road. He noted that it is no where near Penbrook. Mr. Petersohn noted that it is not the first time he has heard a comment from a Board like this. He noted if it is an older site, built in the late 1980's, the search area may have been near Penbrook and even though they found a tall building three miles to the west, there may have been more flexibility. He noted that once a project is funded and named, that name stays with it wherever it goes.

Mr. Staub noted while we are talking about the Villa Teresa facility, why would you not increase the capacity for that location by putting more antenna or whatever you need to do to upgrade it instead of building a new one that is only 1,700 feet away. Mr. Petersohn explained, before Verizon Wireless looks to add another facility; it is faster to leverage the existing facility to its maximum. He noted that once after it has been completely exhausted, do they look towards building another facility. He noted that it becomes more of an issue for how the technology works. He noted that the answer is that this facility with LTE4G, which is the latest technology, uses the same portion of the radio frequency spectrum. He noted when you have

facilities that are very close to one another they are using the same channel and the way the subscriber uses the handset, iPad, Air Card, whatever that device that interfaces from one facility to another is some coding that is done on the channel. He noted that broadband channels occupy the entire LTE portion of the LT spectrum, 700 MHz and they are all using this channel. He noted when you have sites in close proximity to one another there is a lot of overlap which means that sectors that have coverage, the subscribers who are in the overlap area are subjected to what looks like noise from site number one while trying to listen to the good signal from site number two because it is in the shared channel. He noted that the closer you get the sites to one another, the more the overlap, and from a network design perspective for efficient use of the license spectrum it becomes that the subscriber is not able to achieve high data since there is a low signal noise ratio. He noted to make matters worse you have a subscriber that doesn't know that they should be on Site A or Site B because they see those sites almost equally as well, so they hop back and forth and it causes a lot of network overhead which is using capacity. He noted if you take those sites close to one another with the overlap situation and move them on top of one another where you have nothing but overlap, nothing but high signal noise, it just doesn't work. He noted that it is really not an option in this case to add a second site at the same location.

Mr. Staub noted that what he is struggling with is another channel, it seems to me that the Villa Teresa site is maximized and you are unable to allow anymore incoming or outgoing phone calls by upgrading the equipment. Mr. Petersohn answered that is correct. Mr. Staub noted that Verizon needs another separate facility to service this area. Mr. Petersohn explained that there are some things in the works that will allow the existing site to handle more traffic, as there is an auction coming up, the FCC is auctioning portions of the 600 MHz spectrum, planned in 2015 and that would be one means to add capacity to each site, if they choose to participate in that auction which he believes that they will. He noted if they are able to get additional spectrum that way, then there would be a timeline for the manufacturers to get in gear to get the telecommunication equipment in that spectrum and the antenna systems would have to be upgraded to support it so that option would probably be available for use in 2017 or 2018, to boost capacity network wise. He noted that Verizon can't count on something that may happen in five or six years. He noted that there are other ways to boost capacity and they are exploring and working towards those options.

Mr. Staub questioned about the existing tower on the west side of I-83, on Briarsdale Road near Twin Ponds. He questioned if the issues are the same with that facility. He noted that it is a zone that a cell tower is permitted. Mr. Petersohn explained that Verizon is planning to co-locate on that AT&T monopole. He noted that site will serve to off load the southwestern sector of the Pennbrook area. He noted that dot is shown on the map on page two as well.

Mr. Staub questioned if upgrading that monopole could not be done in lieu of building the next site. Mr. Petersohn answered that Verizon is proposing this facility to off load the northerly base perspective and that facility to off load the southwestern base perspective. He noted that there is that much demand and it is not expected to trail off any time soon. He noted that the data demand has been growing steadily since the late 1990's and early 2000's. He noted in 2006 when the iPhone launched, first it was AT&T's network that saw an inflection point for data demand and it has been growing by leaps and bounds since. He noted with the addition of

the Android devices, the I Pad and the Air Cards, and now all the vehicles that have LTE sets in them, the trade magazines suggest that it will be the household appliances next as the blender and refrigerator will email you when you are low on milk. He noted that these are some of the things that we will experience in the next decade or so. He noted that it will all require more capacity.

Mr. Staub noted that related to the Pennsylvania Council of Church property, it is fairly large but he noticed that there is an open area south of the building, is there any reason why you would not relocate the leased area to the south so you would be more than the 385 feet from what you need from the residential property. Mr. Petersohn noted that he would have to defer to the site acquisition person. He explained that he does not typically pick the site area unless it is a huge expanse of a property on the side of the mountain. Mr. Staub noted that the open area south of the building is closer to Londonderry Road and has a higher elevation than the north side and maybe the pole would only need to be 75 feet high instead of 85 feet high. Mr. Devlin noted that there are apartments on that side of the property and they would actually be closer to the pole than the residential use. He noted that he wanted to stay away from any residential use as much as possible. Mr. Staub noted that Mr. Devlin is stating that if the pad is moved to the south side you are within 300 feet of the apartments. Mr. Devlin answered yes.

Mr. Strong noted if you look at Exhibit A-3, it helps to show this. He noted that the apartment's buildings are located on the south side of Londonderry Road and it would be closer to the apartment buildings than on the north side.

Mr. Strong noted on leveraging existing facilities, the speed for the market is very important to Verizon Wireless and if he could simply amend the lease to add more antennas to a building that would be more preferable than having to lease co-locaters from AT&T on the Briarsdale site where Verizon has to lease some ground space from the property owner since the existing compound is not large enough to put their equipment. He noted that we have the lease from the Pennsylvania Council of Churches and with the investment for the infrastructure; it would certainly be cheaper and more effective if we could add more antennas, but from the technological side it prevents us from doing this.

Mr. Strong questioned Mr. Petersohn what Figure 2 shows on page 3. Mr. Petersohn noted with the proposed facility it shows it has created a pie-shaped foot print that emanates from the PRISM center. He noted that the footprint splits what was once the footprint served by the northerly face. He noted that it shows an off load from the Penbrook site and the geography that contains a lot of subscribers for demand and splits the demand from the Penbrook site. He noted that it provides an effective off load by creating another network resource for subscribers to connect. He explained that he showed a light green footprint coverage to the southeast that is covering the hospital complex and it will also offload traffic inside the hospital. He noted that there is another western sector that will offload the traffic demand coming out of the largely commercial and office space areas to the west of the cell tower.

Mr. Strong noted that going through all of the objectives and how this particular location will meet those objectives, would it be possible to meet the applicant's objectives with a new tower facility in one of the zoning districts where the use is permitted in the Township. Mr.

Petersohn answered no. He noted that the closest district where it is permitted is southwest of us where the Briarsdale existing facility is located and Verizon is already planning to co-locate on that facility to address another similar capacity situation so it won't help to address the need at the proposed site.

Mr. Strong requested Mr. Petersohn to identify Applicant's Exhibit A-9. Mr. Petersohn answered that it is a copy of Verizon Wirelesses' licenses to provide wireless service in the area.

Mr. Strong requested Mr. Petersohn to identify Applicant's Exhibit A-10. Mr. Petersohn answered that Exhibit A-10 is an electromagnetic exposure analysis that he prepared. Mr. Strong questioned if the proposed facility will comply with all the applicable standards established by the FCC governing human exposure to electromagnetic radiation. Mr. Petersohn answered for this analysis he considered an extremely upper limit assumptions that resulted in an almost unrealistic upper limit worst case scenario and under that scenario the exposure level would be at least 220 times less than what the FCC considers safe at all locations for public access. Mr. Strong questioned if it would operate well below the permitted levels established by the FCC. Mr. Petersohn answered yes.

Mr. Strong requested Mr. Petersohn to identify Applicant's Exhibit A-11. Mr. Petersohn noted that it is an Interference Analysis. He noted that Verizon Wireless is licensed by the FCC and by that licensure they will not cause any interference with any other users of the radio frequency spectrum. He noted that those other users are also licensed by the FCC to operate within specific portions of the radio frequency spectrum. He noted that Verizon Wireless channels will not overlap with channels occupied by garage door openers, baby monitors, AM/FM broadcasts, public safety users of the wireless spectrum, and all these users are licensed by the FCC and that license clearly defines where they can operate.

Mr. Strong noted in terms of lighting for this proposed pole, he requested Mr. Petersohn to explain Applicant's Exhibit A-12, identify the exhibit and the conclusions in that report and specifically whether the FAA will require that the proposed pole is light. Mr. Petersohn noted that it is a criteria tool screening and contains a determination of no hazard by the FAA. He noted that he performed a screening using the FAA tool to see if the facility would need to be light or marked and his findings were that the facility would not need to be light or marked, but because the facility is relatively close to air navigation station, a filing was required. He noted that it was completed with the FAA and they determined that the facility does not propose a hazard to air navigation and it will not have to be light.

Mr. Dowling questioned what the air navigation station responsible was. Mr. Petersohn answered that it was Capital City Airport down by the water. Mr. Strong noted if you look at page three of the report it shows a red cross within a circle as the location of the proposed tower and you can see the airport hazard surfaces for both Capital City Airport and Harrisburg International Airport. He noted given the general proximity they required a filing with the FAA for determination but the FAA stated that it is not an obstruction and no lighting is required.

Mr. Dowling noted that he has a concern that this tower is in close proximity to the hospital. He questioned if the hospital has a helicopter landing facility as it would not be an

unusual use for a hospital. He questioned if it was factored into the analysis. Mr. Petersohn answered that the FAA considers helipads and heliports, but what they don't consider is an open field where a helicopter can land time to time for various emergency services. He noted that often a helicopter may use a high school football field or an open area where they can safely land. He noted that they don't consider those when they screen these for any potential air navigation hazard. Mr. Dowling noted that he is concerned about air flights in their parking lot at the hospital. He noted that it may not occur now but it could occur at some point in the future. He noted that there is a provision that the FAA says that you can voluntarily light the top of the pole that would be consistent with the guidelines. He questioned if that would be a good idea. Mr. Petersohn explained that he comes across this from time to time and he has been involved in several facilities where for many different reasons a municipality has asked that the tower be lit and in that case there is an application that goes to the FAA. He noted that generally it is approved and the tower has to be lit in accordance with the light guidelines but once lit the tower can never be unlit. He noted that is the catch and in his opinion he would say whatever the governing body is most comfortable with, he has no opinion either way.

Mr. Dowling questioned Ms. Moran if she was aware of any helicopter flights that go in or out of that campus for the Pinnacle-Health hospital. Mrs. Moran answered that she did not know and could inquire but it is a good point. Mr. Dowling noted that it would only need to be a small red light on top of the tower. Mr. Petersohn noted that it is typically solid red at night and a white strobe during the day. Mr. Freeburn noted that given the proximity to the hospital he would feel more comfortable if the tower was lit. Mr. Dowling noted that flights may not go in to the hospital but he could envision a situation where there is an emergency transport where they have to leave that hospital and go somewhere else and it could be at night. He noted that you are fairly away from the parking lot but it would be a prudent precaution. Mr. Freeburn noted that all you need is for it to be a tragedy. Mr. Strong noted that the ordinance contemplates that they can say that it can be light and Verizon Wirelesses policy is not to light unless otherwise required but certainly if the municipality wants it to be light, we can do that. He noted that we were doing a site in Cumberland County and the Township had identified the area where he was doing that site as one where Life Lion came through regularly when they were heading out I-81 to the west. He explained that he was asked to contact Life Lion, which he did and Life Lion explained to him that there is a registry that as soon as a new tower is constructed, it goes on that registry and they are advised that there is a new facility. He noted that it provides some level of assurance that they will know about it but certainly if the extra level of assurance is warranted... Mr. Freeburn noted that it would be better as the light would be staring right at you and you would not have to reference a registry. Mr. Strong noted that it would be an acceptable level of approval requiring that the tower be light. Mr. Dowling suggested that the Township could contact the hospital and inquire what their opinion is for it. Mr. Freeburn noted that we should just do it. He questioned, what the point is, the hospital might state that it is not likely, but what we are trying to avoid is any possibility of an accident if someone has to land on the highway for an emergency situation due to an accident. He noted if we can require it, then let's do it now. Mr. Strong answered that it would be a perfectly acceptable condition of approval.

Mr. Strong requested Mr. Petersohn to identify Applicant's Exhibit A-13. Mr. Petersohn explained that it is a copy of a Bureau of Aviation Screening, and in this case he completed the

AV-57 Form and submitted it for their review as it contains the pertinent information with respect for this application of ground elevation, coordinates, overall structure noting that it would be 85 feet to include the lighting rod. He noted that Mr. Charles Brewer is the Aviation Specialist with the Bureau and he deemed that the facility would not be an obstruction under the aviation code and they had no objections with the proposal.

Mr. Strong noted that is all the questions that he had for Mr. Petersohn.

Mr. Strong called Bruce Stegman, who noted that he resides at 35 East Avenue, Red Lion, Pennsylvania and explained that he works with Stegman Engineering.

Mr. Strong requested Mr. Stegman to explain his educational background and experience in regards to structural engineering. Mr. Stegman answered that he has a Bachelor of Science in Civil Engineering from Drexel University and a Master of Science in Civil Engineering from the University of Maryland with specialties in structural and geometric engineering.

Mr. Strong requested Mr. Stegman to explain his background and experience as it related to working with towers in the industry. Mr. Stegman answered that he has managed literally thousands of sites over the past 15 years.

Mr. Strong displayed Applicant's Exhibit A-14 and asked Mr. Stegman to identify the exhibit and describe if this tower will be designed in accordance with industry standards and in such a way that it will meet the structural and distance requirements of those standards and of the Pennsylvania Uniform Construction Code. Mr. Stegman noted that he authored that letter on April 16, 2014, that describes the tower as being an 80-foot tall structure with a five foot lightning rod. He noted that it would be a tubular steel structure, approximately 36 to 48 inches in diameter at the base and taper to 18 inches at the top and would be constructed as a "tree pole" i.e. that it would be stealthed with artificial tree limbs to resemble a pine tree. He noted that the Pennsylvania Building Code cross references the national tower code which is a telecommunications industry association, noting that we are currently under Version G which was issued in 2006. He noted that it stipulates that 90-mile an hour basic wind speed which is consistent with Pennsylvania Building Code, at a ten meter height. He noted that the wind speed escalates with height by both tower and building codes. He noted that the tower and method of attachments would be designed by a professional engineer in compliance with the telecommunications industry standard. He noted that the tower would be designed for Verizon's typical array of 12 antennas, fiber cables to the antennas, sector boxes, and radio equipment. He explained that it would be designed to meet all applicable state and national codes, and that the occurrence of tower failures is extremely rare.

Mr. Strong questioned if the tower could be designed to accommodate the antennas of additional carriers if they desire to co-locate on this tower. Mr. Stegman answered yes.

Mr. Turner questioned if it is a case of could be or would be designed to accommodate additional... Mr. Strong answered that it would be. He noted that it could be a condition of approval as well so it is clearly stipulated. He noted that they are designed to accommodate

Verizon's equipment and the equipment of additional wireless communication and service providers such as AT&T, or T-Mobile or public emergency services.

Mr. Freeburn questioned if anyone else had any questions or if Mr. Strong had any other witnesses or testimony.

Mr. Strong answered no but requested that Applicant's Exhibits A-1 through A-14 be made a part of the record. He hopes that the Board see this as a unique solution to addressing the need in a way that most people will not know that it is there. He requested approval of this plan.

Mr. Freeburn questioned if anyone else in the audience wishes to be heard on this application. No comment was provided.

Mr. Hansen questioned if it was possible for what you propose to max out and not be able to use them in any other area. Mr. Strong noted that Verizon is proposing 12 antennas and he questioned if he wanted to know what would be the next step if we would use up the capacity of this site. Mr. Dowling questioned where it ends. Mr. Petersohn answered that he does not know, but for what Verizon is proposing in the immediate area, these two facilities will address the foreseeable need for the area; however if things keep growing the way they are growing as far as capacity demand, he can't say that within five or ten years we will need another facility somewhere in this general area. He noted that there are many other things in play including spectrum auctions that would impact this, potential acquisitions that would be along with the spectrums so there are other means that Verizon could use to bolster its spectrum position and thereby provide its subscribers with capacity.

Mr. Freeburn noted that the Board has 45 days to render a decision and questioned if the Board would like to make a motion on Docket 1353.

Mr. Dowling questioned if the Township has a position on this application. Ms. Moran answered that it does not.

Mr. Freeburn made a motion to approve Docket No. 1353, conditioned upon the applicant applying to the FAA for a permit to have the pole lighted, and if it would be built that it would provide the capacity to accommodate other users. Ms. Cate seconded the motion. Mr. Freeburn requested Mr. Turner to conduct a roll call vote: Mr. Hansen, nay; Mr. Staub, aye; Mr. Dowling, aye; Mrs. Cate, aye; and Mr. Freeburn, aye.

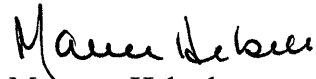
The hearing ended at 8:38 p.m.

Mr. Staub questioned, when the Board of Supervisors adopted that last 2006 Zoning Ordinance they didn't allow cell phone towers in most of the zoning districts with the exception of the Conservation, Limited Industrial and General Industrial Districts. He questioned what the Board was thinking. He questioned if the industry has evolved to a point that we need to revisit this in the zoning ordinances. Mr. Turner noted that he has seen Mr. Strong in Silver Springs Township and Perry County and it has become clear to him that five to ten years ago the philosophy was to put the tower up on the mountain and make it shoot out as much as it possible,

but the data demand has increased, doubling every two to three years. He noted that smaller towers are now the need.

Mr. Dowling suggested that the answer might be that they want all these applications to come before the Zoning Hearing Board to look at them individually and make a decision. Mr. Staub answered that it was a very good point.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Maureen Heberle". The signature is written in a cursive, flowing style.

Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
CELLCO PARTNERSHIP : DOCKET NO. 1353
dba VERIZON WIRELESS :

DECISION GRANTING VARIANCE

The applicant seeks a variance to locate a cell tower in an Institutional Zoning District with a setback of 331 feet. A hearing on the application was held on April 24, 2014.

Facts

1. The applicant and proposed lessee of the property in question is Cellco Partnership, d/b/a Verizon Wireless, of 4642 Jonestown Road, Suite 200, Harrisburg, Pennsylvania 17109. The applicant was represented at the hearing by James Strong, Esquire. Appearing on behalf of the applicant was Paul Devlin of Untied Business Technologies and Max Shravley, site engineer.

2. The property in question is located at the northwest corner of Londonderry Road and South Arlington Avenue. It is bounded on the west by Interstate 83. The parcel consists of 3.954 acres and is zoned Institutional. The southern portion of the property is improved with an office building and related parking facilities which is owned and used by the Pennsylvania Council of Churches. The northern portion of the property is undeveloped.

3. The applicant proposes to lease a 10,000 square foot area in the northern portion of the lot. The leasehold would be improved with a 50 feet by 50 feet fenced area within which would be erected an equipment shelter and an 80 feet tall monopole cell tower. The tower would be set back 90 feet from the western property line along I-83, 145 feet from the eastern property line along S. Arlington Avenue and 313 feet from the northern property line. The tower would be set back 331 feet from the dwelling located to the north.

4. The applicant selected the proposed site based upon an engineering analysis of demand in the area and capacity of existing facilities. There were no properties available in the

required geographic area which are zoned to permit cell towers. Existing towers in the vicinity are over capacity resulting in poor service. Capacity will be exceeded in the area by 2015.

5. The site would not be staffed and it would require only maintenance visits once or twice per month. An exterior generator would be located on the site for emergency use. It would be operated one hour per week for testing purposes. The tower would be built to accommodate other uses pursuant to a co-location agreement between the major carriers.

6. Notice of the hearing was posted and advertisement made as required by the ordinance.

7. No one other than the applicant's representatives appeared before the Board to testify either in favor of or against the proposed variance.

Conclusions

1. Section 306.B.1.b. sets forth the permitted locations for a cell tower. Cell towers are not permitted in the Institutional Zoning District. Section 402.A.16.b(2) of the ordinance requires that towers be set back 300 feet plus the height of the tower from an existing residential structure. The proposed tower would violate these sections of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that while the property is not burdened by a hardship preventing its use, the applicant faces a hardship in that there are no properly zoned sites which meet the technical requirements to solve the coverage problem. The applicant has explored co-location and available industrial sites to no avail.

4. Granting the variance will not alter the essential character of the neighborhood. The area is dominated by institutional uses and while the neighbor to the north is within the setback, the intrusion is modest. The proposed tower would not pose a threat to the adjoiner nor would it loom over the property.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of an 80 feet monopole tower on the condition that the applicant apply for a permit to mount a light on the top of the tower and that it be constructed in a manner to allow co-location of other cell service providers.

Date: 5/22/14

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn

STC 10

Sara Jane Cate

David B. Dowling

David B. Dowling

Jeffrey W. Staub

Jeffrey W. Staub

Board alternate Hansen dissents from the decision of the Board.

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of April 24, 2014

Members Present

Richard Freeburn
Jeff Staub
Sara Jane Cate
David Dowling
Alan Hansen
Watson Fisher

Also in Attendance

James Turner
Dianne Moran

Docket 1354

Applicant: Cellco Partnership d/b/a Verizon Wireless

Address: 4642 Jonestown Road, Suite 200
Harrisburg, Pennsylvania 17109

Property: 4951 Irene Drive
Harrisburg, Pennsylvania 17112

Section 306.B.1.b

A Commercial Communication Antennae/Tower is not permitted in the R-1, Low Density Residential District

The Applicant wishes to construct a cell tower in the R-1, Low Density Zoning District at the property located at 4951 Irene Drive.

Section 402.A.16.b(2)

A new tower, other than a tower on a lot of an emergency services station, shall be set back the following minimum distance from any existing dwelling: 300 feet plus the total height of the tower above the surrounding ground level.

The Applicant seeks relief to permit the monopole to be located less than three hundred and eight-five (385') (tower height + required setback) from an existing residential dwelling.

Grounds: Section 306 and 402

Fees Paid: March 31, 2014

Property Posted: April 14, 2014

Advertisement: Appeared in The Paxton Herald on April 9, 2014 and April 16, 2014.

The hearing began at 8:40 p.m.

Mr. James Strong, Attorney with McNees Wallace and Nurick, LLC, 100 Pine Street, Harrisburg, Pennsylvania, represented the applicant, Cellco Partnership d/b/a Verizon Wireless.

Mr. James Strong distributed copies of the Exhibits for the hearing to the Board members and noted that he has laid a substantial foundation for this hearing through Docket 1353. He noted that he would be expeditious in providing testimony for this hearing. Mr. Turner noted for the sake of the record, he would incorporate the testimony from the hearing for Docket 1353 into this application in the event there would be an appeal that it could be transferred to both applications. Mr. Strong agreed that it would be a very good idea. Mr. Freeburn agreed that it would meet with the approval of the Zoning Hearing Board.

Mr. Strong noted that the application for this proposed facility is located at 4951 Irene Drive. He explained that it is a very heavily wooded area that is east of I-81 after the I-81/I-83 split. He noted that you will see from Applicant's Exhibit A-3 that it is an R-1 Zoning District to the east. He noted that it is fairly close to the Interstate, in a wooded area and there is a sound wall that is located to the east with all the remainder of the properties to the east and residential dwellings to the east of that sound barrier. He noted that the tower is tucked into the woods with additional screening from the sound barrier. He noted that it is a very good situation for this type of facility, an 80 foot tall tree pole, with most people not aware of its presence.

Mr. Freeburn questioned if the pole is too close to the residence on the property, but otherwise there are no residences close by. Mr. Strong answered that is correct. He noted that this is the same variance request for 300 feet plus the height of the tower from an existing dwelling but it is the property owner's property. He noted that Verizon has a lease with the property owner and they have consented to that. He noted that the zoning plan has a radius drawn with a circle of 385 feet and there are no other existing dwellings within that distance. He noted that the variance is for the house that is on the property.

Mr. Strong noted that he is dealing with the same types of issues with respect to the current zoning as Verizon has existing sites that surround this area: 4949 Queen Street; co-location on a tower at 122 North Nyes Road; 491 Blue Eagle Avenue; 5840 Linglestown Road, a tower dating back to the last 1990's; and a rooftop co-location at 2405 Park Drive.

Mr. Strong noted that Verizon would have attach to an existing structure if there was one available; therefore, they are proposing a 80-foot mono-tree pole to address their objectives for this area.

Mr. Freeburn requested all persons in the audience that were present to testify for this application to please rise to be sworn in. He noted that each person would identify themselves as they provided testimony.

Mr. Freeburn noted that Dianne Moran, Planning and Zoning Officer for the Township was previously sworn in.

Mr. Rich Rusnok explained that he works for Network Building and Consulting, a site acquisition consultant, 13 East Cole Street, Pittston Pennsylvania. Mr. Strong questioned if Mr. Rusnok went through a similar process like Mr. Devlin who testified for the earlier application that he went through the process and as a result identify this property as a candidate for a tower facility. Mr. Rusnok answered yes noting that he went through a very extensive review of the site because there were several potential co-location resources nearby including an existing AT&T Tower that was on PPL property and some nearby PPL utility poles. He noted those potential resources were brought to the attention of Verizon folks but they were rejected because of the very specific parameters and objectives for this site. He noted that they are very much along the same lines for what he reviewed in the first application so it was a very specific location that he was dealing with. He noted the location for this facility is very fortunate in that it is not located near any residential structures it is located in a very isolated portion of the property, and made up of 13 acres with only 1.5 acres of the property currently developed. He noted that the balance of the property is wooded and the northern section of the property abuts directly along I-81.

Mr. Strong produced Applicant's Exhibit A-1 and questioned if it is an authorization letter from the owners of the property authorizing Verizon to apply for any necessary permits and approvals. Mr. Rusnok answered yes.

Mr. Strong produced Applicant's Exhibit A-2 and questioned if it is a copy of the zoning plan that was submitted with the applications. Mr. Rusnok answered yes. Mr. Strong requested Mr. Rusnok to explain the documents. Mr. Rusnok explained it is a 13-acre parcel, but it is not a very squared off property as there are some jogs in the property line. He noted that the northern property line does abut I-81 and there are a couple of structures on the property; one is identified as the current residence of the property owner with a nearby barn with a corral area. He noted that the proposed development falls in the area shown on the map using an entrance from Irene Drive into the property and it will make a jog around the existing sound wall that cuts through the property. He noted that the post site will sit on the westerly side of the sound wall and is about 12 to 15 feet in height. He noted that it would effectively buffer the site of the compound plus the equipment shelter from any residences in the westerly direction.

Mr. Rusnok explained that the leased area will be 100 feet by 100 feet and within that area will be a compound, 50 feet by 50 feet with an eight foot fence with barb wire at the top. He noted within the compound will be the 80 foot mono-pole with a five-foot lightning rod and the basis for the equipment shelter area is 12 foot by 16 foot. He noted that there will also be a generator that will be placed on this facility; however, the fact that it will be located on the western side of the sound wall, face out into a heavily wooded area and compete with the noise from I-81, the noise level from the generator when it is turned on will be quite limited. He noted that the location of the facility, showing a circle shown around the facility, is the setback requirement for the tower. He noted that it does not extend to the residence but he showed the larger circle which is 385 feet. He noted that there are no other residential structures within that radius other than the one single home.

Mr. Strong noted that the ordinance requires that an applicant provide evergreen landscaping with a minimum of four feet in height at the time of planting, or preserve existing

vegetation. He questioned if the proposed existing vegetation around the facility would provide screening for that portion that is not screened by the sound wall. Mr. Rusnok answered that there would be existing vegetation on the northern, western and southern sides as it is very heavily vegetated and no one will ever see it. He noted on the eastern side is the existing sound barrier that is approximately 15 feet in height and will hide all the ground facilities.

Mr. Strong questioned, if the Board was to determine that additional screening should be added to the plan, would Verizon Wireless have any objection to doing that. Mr. Rusnok answered no.

Mr. Strong produced Applicant's Exhibit A-3 and questioned if it was the aerial exhibit photo that he referenced earlier on the display board. Mr. Rusnok answered yes.

Mr. Strong produced Applicant's Exhibit A-4 and questioned if it is a copy of the Township's Zoning Map. Mr. Rusnok answered yes.

Mr. Strong produced Applicant's Exhibit A-5 and questioned if it was a copy of Verizon's Collocations Policies. Mr. Rusnok answered yes.

Mr. Dowling noted with all the zoning sites, you could not find a better spot than this one. Mr. Rusnok answered that he was very fortunate that where this property is in relation to other residences in that area they will not see much of anything. He noted that the existing trees in that area range 35 to 50 feet. Mr. Dowling noted that he visited the site. He noted that he was not sure if it would be located on the other side of the sound wall or the residential side. Mr. Rusnok explained that it would be on the western side.

Mrs. Cate questioned if Verizon will lease the property. Mr. Rusnok answered yes. Mrs. Cate questioned if the resident get a lot of money. Mr. Rusnok answered that he will get compensated but it is not part of the zoning procedure to release that information. Mrs. Cate questioned how long the lease is. Mr. Rusnok answered that it is a basic five-year lease with four five-year options and one additional four- year, eleven-month option. He noted that it is for 29 years and 11 months. Mr. Strong noted that it is just below the 30-year mark that would require reality transfer taxes.

Ms. Moran questioned if the tree pole will have the same branches as the previous one. Mr. Strong answered yes. Mrs. Moran questioned if you have ever been asked to put more branches on the pole. Mr. Strong noted, in talking to the Verizon Wireless, construction manager, he orders the tower so that the branches extend all the way down to 40 feet above ground level.

Mr. Kenneth Farrall noted that he is the manager of engineering services for CNC Engineering, 2215 Kimberton Road, Kimberton, Pennsylvania.

Mr. Strong questioned if Mr. Farrall's firm prepared the zoning plan that was submitted with the Zoning Application. Mr. Farrall answered yes. Mr. Strong questioned if his firm

prepared the aerial exhibit that was introduced as Applicant's Exhibit A-3. Mr. Farrall answered yes.

Mr. Strong questioned if the tower will be set back a minimum of 85 feet from all property lines. Mr. Farrall answered yes. Mr. Strong questioned if the only existing residential dwelling that is within 385 feet of the tower is the property owner's dwelling. Mr. Farrall answered yes as it is approximately 116 feet from the tower to the corner of the building.

Mr. Strong questioned if the existing vegetation, together with the existing sound wall, adequately screen the facility. Mr. Farrall answered yes. Mr. Strong questioned if the Board were to determine that they wanted additional landscaping would Verizon Wireless agree to provide it as requested. Mr. Farrell answered yes.

Mr. Strong questioned if the equipment shelter would have a total floor area of less than 400 square feet. Mr. Farrall answered yes. Mr. Strong questioned if it would comply with the maximum permitted height requirement and applicable setbacks for principal building in the R-1 district. Mr. Farrall answered yes.

Mr. Strong noted that we heard testimony earlier regarding the generator and the anticipated sound level, we have the same sound study that is identified as Applicant's Exhibit A-7, and will that generator comply with the maximum sound level set forth in Section 505. A of the zoning ordinance. Mr. Farrall answered yes.

Mr. Strong produced Applicant's Exhibit A-6 as a larger version displayed on the board. Mr. Farrall answered that it is the photo simulation that he prepared for the site. Mr. Strong requested Mr. Farrall to show what is represented on that exhibit, how it was prepared, and what the different perspectives are. Mr. Farrall answered that he has a photo simulation plan which has seven views where he took a balloon and floated it up to the elevation to show what the elevation of the tower would be. He noted that he goes around and takes pictures of it. He noted that the first picture is looking at the cell tower from the owner's property. He noted that the second picture shows the view from 5005 Irene Drive; it is barely visible as it blends in with the trees and existing vegetation. He noted that it is the same for 1126 Loop Drive, 1144 Loop Drive and from the Grace Bible Fellowship Church Parking Lot. He noted that view six is taken from the Colonial Road Bridge over I-81 and above the trees it is only visible about 30 to 40 feet. He noted from 1288 Geraldine Drive, on the other side of I-81, the pole is caught up in the existing vegetation and above the existing sound wall. He suggested that we picked the right spot given the vegetation, existing woods, the small height of the tower, and that we are proposing a tree pole, it fits right in and will not be noticeable once it is built.

Mr. Andrew Petersohn, 3230 Waterstreet Road, Collegeville, Pennsylvania, noted that he is the Verizon Radio Frequency Design Representative.

Mr. Strong produced Applicant's Exhibit A-8 and questioned the need at this site. Mr. Petersohn explained that the exhibit is a copy of the Radio Frequency Design Analysis and pages two and three contain coverage maps. He noted that the big difference with this facility to the application prior to this is that it is more of a coverage related facility than a capacity related

facility. He noted that he is not saying that there is no stress on the network in this graphic but they are not being stressed at the level than the other facility as it was trending towards capacity exhaustion. He noted that we have a gap in reliable service in this case and it exists in the area surrounding I-81, in all directions from this facility nearly three quarters of a mile.

Mr. Dowling questioned how this was determined, what instrumentation was used. Mr. Petersohn answered that there are a few ways for Verizon to identify gaps in service. He noted that people will go to an area to determine if they can be heard. He noted that the person drives a sophisticated vehicle doing many test calls monitoring many things that happen behind the scenes. He noted that customer complaints are another way to determine gaps in service. He noted that they also use network statistics so, in the case of a capacity existed site; they are monitoring the usage of the facilities and trending the usage out to the future to see when the facility will be exhausted. He noted that they use that information to monitor the traffic of calls, looking at the average data speed, connectivity time outs, and things like that that can occur during any session. He noted that they will use that information to determine if there are any gaps in service. He noted if the roof top facility is dropping a high number of calls it is a good indication that there is a gap in service level. He noted that propagation modeling is another example.

Mr. Strong requested what Mr. Petersohn would expect to see if this facility was built. Mr. Petersohn answered that Figure Two found on page three of the report shows that if the facilities were constructed, the new reliable service area is illustrated in green, it shows what Verizon is striving to provide to all their subscribers although there are still some areas shown in white that surround this facility. He stated that he is not suggesting that he will be back next week to propose more sites. He noted that this tower will not cure every issue with the network overnight. He noted that they are coming down in height, covering less area and the subscribers are holding Verizon to a higher standard of coverage. He noted what he is displaying is a very stringent level of service and he would expect with some frequency you could hold a call as you drive along I-81 during busy hours when the network is loaded, you may drop on I-81, but that is not the objective for this facility, it is to service the infield area for most of the data requests from homes and offices.

Mr. Strong produced Applicant's Exhibit A-91 and questioned Mr. Petersohn to identify it. Mr. Petersohn answered that it is a copy of the Federal Communication Commission Licensees that covers areas that Verizon is holding. Mr. Strong questioned if they were the same licenses provide during the last hearing. Mr. Petersohn answered yes.

Mr. Strong produced Applicant's Exhibit A-10 and requested Mr. Petersohn to identify the exhibit and its conclusion. Mr. Petersohn answered that it is a copy of the Electromagnetic Exposure Analysis and in this case he will be operating at least 220 times below what the FCC considers safe.

Mr. Strong produced Applicant's Exhibit A-11 and requested Mr. Petersohn to identify the exhibit. Mr. Petersohn answered that it is a copy of the Interference Analysis showing that Verizon Wireless will operate only within the portions of the radio frequency spectrum to which

they are licensed and by virtue of that licensure that they will not cause any harmful interference to other users of the radio frequency.

Mr. Strong produced Applicant's Exhibit A-12 and requested Mr. Petersohn to identify the exhibit. Mr. Petersohn answered that it is the FAA Notice Criteria Tool Screening and in this case he took the pertinent information, entered it into the FAA's notice criteria tool and the same conclusion was reached as the prior application in that the lighting or marking will not be required; however, since they are approximate to a aviation facility the FAA will require the filing. He noted that it has not yet been completed but he does not anticipate any result that would be different from the last docket. Mr. Strong noted for page three, we are still looking at the same airports but are farther north for this application. Mr. Petersohn answered that was correct. Mr. Strong noted if the Township was to request that this tower be lit, would that be something that Verizon Wireless would be willing to do. Mr. Petersohn answered yes. Mr. Strong noted that the tower is not proposed to be lit. Mr. Peterson answered yes.

Mr. Strong produced Applicant's Exhibit A-13 and requested Mr. Petersohn to identify the exhibit. Mr. Petersohn noted that it is the Pennsylvania Bureau of Aviation Screening, similarly with the last application; he submitted form AV-57 with all the pertinent information, and Charles Brewer, Aviation Specialist in charge of this area, deemed that the facility is not an obstruction and that the Bureau of Aviation has no objection to the proposal.

Mr. Strong called Bruce Stegman of 35 East Avenue, Red Lion, Pennsylvania who explained that he works with Stegman Engineering. Mr. Strong noted that he was showing Mr. Stegman Applicant's Exhibit A-14, he questioned if that report is similar in its conclusion to your report that was submitted for the prior application. Mr. Stegman answered yes it was. Mr. Strong questioned if this tower is the same type and design as the tower that was the subject of the first application. Mr. Stegman answered yes. Mr. Strong questioned if Mr. Stegman's testimony would be the same with respect for this tower as it was for the tower for the first application. Mr. Stegman answered yes.

Mr. Strong noted that would be all the testimony and exhibit for this hearing and he requested that Applicant's Exhibits A-1 through A-14 be made apart of the record. He noted if the Board requests that the tower be lit we will comply with that condition. He noted that he feels satisfied that the existing landscaping, vegetation and trees surrounding the property along with the sound wall effectively screen the property. He noted if the Board were to desire additional landscape screening he would be more than happy to provide it as well.

Mr. Freeburn questioned if the board had any additional questions for the applicant. No comments were made.

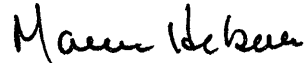
Mr. Freeburn questioned if anyone in the audience wished to be heard on this docket. No comments were provided.

Mr. Freeburn noted that the Board has 45 days to render a decision and questioned if the Board would like to make a motion on Docket 1354.

Mr. Dowling made a motion to approve Docket No. 1354 as submitted. Mr. Freeburn seconded the motion. Mr. Turner called for a roll call vote: Mr. Hansen, aye; Mr. Staub, aye; Mr. Dowling, aye; Mrs. Cate, aye; and Mr. Freeburn, aye.

The hearing ended at 9:14 p.m.

Respectfully submitted,



Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
APPLICATION OF : TOWNSHIP ZONING HEARING BOARD
: DAUPHIN COUNTY, PENNSYLVANIA
: CELLCO PARTNERSHIP : DOCKET NO. 1354
dba VERIZON WIRELESS :

DECISION GRANTING VARIANCE

The applicant seeks a variance to erect a cell tower in an R-1 Low Density Residential District. A hearing on the application was held on April 24, 2014.

Facts

1. The applicant and proposed lessee of the property in question is Cellco Partnership, d/b/a Verizon Wireless, of 4642 Jonestown Road, Suite 200, Harrisburg, Pennsylvania 17109. The applicant was represented at the hearing by James Strong, Esquire. Appearing on behalf of the applicant were Rich Rostock of Network Building and Consulting and Kenneth Farrell of CMC Engineering. The property is owned by Jeanne L. Van The Nuys-Hitt of 4951 Irene Drive, Harrisburg, Pennsylvania 17112.

2. The property in question is located at the west end of Irene Drive and is bounded on the north by Interstate 81. The property consists of 14.6 acre and is zoned Residential-R-1. The property is improved with a single family dwelling located in the eastern portion of the lot. A sound wall is erected on the property to buffer the neighborhood from interstate traffic noise. The wall generally runs north to south.

3. The applicant proposes to lease a 10,000 square feet portion of the lot on the west side of the sound wall. On the lot the applicant proposes to create a 50 feet by 50 feet fenced compound within which will be erected an equipment shelter and an 80 feet high treepole antenna for cellular phone service. A generator for emergency use will also be located on the site.

4. The cellular tower is proposed to fill a hole in existing coverage and to meet the increasing demand for cellular service. Because of the sound wall and the distance to existing residences there will be no offsite noise generated by the project. The tower is located several

hundred feet from the nearest residence other than the property owner's. The site is the least intrusive location which meets the needs for coverage.

5. Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the applicant's representatives appeared before the Board to testify either in favor of or against the proposed variance.

Conclusions

1. Section 306.B.1.b. of the ordinance sets forth the permitted uses in the R-1 district. The proposed use is not a permitted use.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship not created by the owner consisting of the location against Interstate 81 and the presence of a sound barrier on the property. These factors severely limit the reasonable use of the property for those uses permitted in the R-1 district. Further, the Board recognizes the applicant's hardship in finding sites which meet the technical requirements for coverage while not being overly disruptive to the community.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. The chosen location is already isolated from the neighborhood by the sound wall and the wooded characteristics of the property. The tower's impact is further diminished by the large area of the subject property and the large setback from surrounding residences

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted allowing the erection of an 85 feet cell tower on the subject property in strict accord with the plans and testimony submitted to the Board.

Date: 5/22/14

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn

SJ Cate

Sara Jane Cate

David B. Dowling

David B. Dowling

Jeffrey W. Staub

Jeffrey W. Staub

Allan Hansen

Allan Hansen

**LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD**

Meeting of April 24, 2014

Members Present

Richard Freeburn
Jeff Staub
Sara Jane Cate
David Dowling
Alan Hansen
Watson Fisher

Also in Attendance

James Turner
Dianne Moran

Docket 1355

Applicant: Beaufort Hunt, Inc

Address: 2308 Stumpstown Road
Mechanicsburg, Pennsylvania 17055

Property: 6660 Union Deposit Road
Harrisburg, Pennsylvania 17111

Section 402.A.27.a

All buildings in which animals are housed (other than buildings that are completely soundproofed and air conditioned) and all runs outside of buildings shall be located at least 150 feet from all "residential lot line".

Section 402.A.27.e

The minimum lot area – 6 acres, unless a larger lot area is required by another section of this Ordinance

Fees Paid: December 13, 2013

Property Posted: April 14, 2014

Advertisement: Appeared in The Paxton Herald on April 9, 2014 and April 16, 2014.

The hearing began at 7 p.m.

Mr. Jeff Staub noted that he had to recuse himself from this hearing as he has a business relationship with the application. Mr. Freeburn noted Mr. Staub's recusal. Mr. Turner explained that Mr. Hansen and Mr. Fisher will be voting on this application.

Mr. Freeburn swore in Mary Ann Yahn, 325 Piketown Road, Harrisburg, Pennsylvania, 17112, who explained that she is a joint Master for the Beauford Hunt, and George Zimmerman,

Real Estate Broker, 124 Cambridge Drive, Hershey, Pennsylvania. Mr. Zimmerman explained that he represents the sellers, Barbara and Glenn Cassel.

Mr. Freeburn swore in Dianne Moran, Planning and Zoning Officer for the Township.

Mr. Freeburn questioned if the appropriate fees were paid for this application and if the property was posted. Ms. Dianne Moran advised that the appropriate fees were paid on December 13, 2013. The proper advertisements appeared in The Paxton Herald on April 9, 2014 and April 16, 2014. The hearing notices were posted on April 14, 2014.

Mr. Freeburn questioned what variance the applicant was seeking for Docket 1355. Ms. Moran answered that it is Section 402.A.27.a; All buildings in which animals are housed (other than buildings that are completely soundproofed and air conditioned) and all runs outside of buildings shall be located at least 150 feet from all "residential lot line", and Section 402.A.27.e The minimum lot area – 6 acres, unless a larger lot area is required by another section of this Ordinance

Mr. Freeburn directed the applicant to explain to the Zoning Hearing Board why the variance should be granted.

Mrs. Yahn explained that the kennels have been at that location for about 29 years and they have been good neighbors on the property. He noted that they have rented the land from Glenn and Barbara Cassel all that time. She noted that the organization now has the opportunity to purchase the land, the two acres which is all they use noting when they exercise the hounds they take them off the property into the State Game Lands. She explained that they do not use any of the surrounding property for anything at this time even though it is vacant.

Mr. Yahn noted that they have had the hounds at that location for 20 some years and would like to keep them there. She noted that Beaufort Hunt has been in existence since 1929 and it is a recognized Master's Fox Hound Kennel since 1939 and it is the organizations' first opportunity to own the kennel.

Mr. Freeburn questioned if there would be any change in the way the organization would conduct it activities. Mrs. Yahn answered no. She noted that the runs are in place, and the barn is used as a kennel and no one lives there.

Mr. Freeburn questioned if the Township had a position for this application. Ms. Moran answered no.

Mr. Freeburn questioned if anyone in the audience wished to comment on Docket 1355. No response was heard.

Mr. Freeburn questioned if any board members had any additional questions. Mr. Dowling noted that the Board had a previous application from the applicant in the past. Ms. Moran answered that the organization received a minimum side yard setback variance for a principal non-residential use January 30, 2014. She noted that the current request is

housekeeping as the kennel is listed in a separate section of the ordinance that was overlooked for size.

Mr. Dowling questioned if there was another application before January of this year. Ms. Moran answered no.

Mr. Freeburn noted that the Board has 45 days to render a decision and questioned if the Board would like to make a motion on Docket 1355.

Ms. Cate made a motion to approve Docket No. 1355. Mr. Hansen seconded the motion. Mr. Freeburn called for a roll call vote: Mr. Fisher, aye; Mr. Hansen, aye; Mr. Dowling, aye; Mrs. Cate, aye; and Mr. Freeburn, aye.

The hearing ended at 7:08 p.m.

Respectfully submitted,



Maureen Heberle
Recording Secretary

IN RE: : BEFORE THE LOWER PAXTON
: TOWNSHIP ZONING HEARING BOARD
APPLICATION OF : DAUPHIN COUNTY, PENNSYLVANIA
:
BEAUFORT HUNT, INC. : DOCKET NO. 1355

DECISION GRANTING VARIANCE

The applicant seeks a variance from minimum lot area and minimum distance between a kennel and a residential lot line. A hearing on the application was held on April 24, 2014.

Facts

1. The applicant and owner of the property in question is Beaufort Hunt, Inc. of 2208 Stumpstown Road, Mechanicsburg, Pennsylvania 17055. Appearing on behalf of the applicant were George Zimmerman, real estate agent for the property owner and Maryann Yahn, Master of Fox Hounds.

2. The property in question is owned by Barbara and Glenn Cassell of 6611 Union Deposit Road, Harrisburg, Pennsylvania 17111.

3. The property consists of a 52.95 acre parcel located on the east side of Union Deposit Road. It is zoned Agricultural. The property is improved with several attached dwellings, a barn and block garage. The property owner proposes to subdivide the parcel creating a new 2.01 acre lot encompassing the existing barn and block garage which would be sold to the applicant. A corner of the block garage would be located within 25 feet of the new property line.

4. The applicant is the existing tenant for the outbuildings. The lower level of the barn is used to house dogs. The applicant has been doing so for 29 years. No changes are planned.

5, Notice of the hearing was posted and advertisement made as required by the ordinance.

6. No one other than the applicant's representatives appeared before the Board to testify either in favor of or against the proposed variance.

Conclusions

1. Section 402.A.27.a of the ordinance requires a minimum setback of 150 feet between a kennel which is not completely soundproofed and air conditioned and all residential lot lines. Section 402.A.27.e of the ordinance requires a minimum lot area of a subdivided lot to be 6 acres, unless a larger area is required under another section of the Ordinance. The proposed subdivision would violate these sections of the ordinance.

2. Article 111.D.3 of the ordinance gives the Zoning Hearing Board the power to authorize, in specific cases, variances from the terms of the ordinance and its supplements as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary hardship. The ordinance further requires that the spirit of the ordinance shall be observed, public health, safety and general welfare shall be secured, substantial justice shall be done, and no appreciable diminution of the market value surrounding properties shall be caused by such variance.

3. The Board finds that the property is burdened by a hardship consisting of the placement of the buildings which predates the ordinance. This makes subdivision of the lot impossible without variance.

4. Granting the variance will not alter the essential character of the neighborhood nor impair surrounding property values. There will be no change to the property as the result of the variance. The use is well established and will not be altered.

Drawing a property line between the existing buildings will have no impact upon adjoining or the general public. The only persons who will be affected by the requested relief from the setback requirements are the existing owners and occupants of the property.

Decision

In view of the foregoing and having considered the plans and testimony submitted to the Board, it is the opinion of the Board that the variance requested should be and is hereby granted from minimum lot area and minimum setback for a kennel, allowing the subdivision of the property known as 6660 Union Deposit Road in strict conformity with the plans and testimony submitted to the Board.

Date: 5/22/14

LOWER PAXTON TOWNSHIP
ZONING HEARING BOARD

Richard E. Freeburn

SJ Cate

Sara Jane Cate

David B. Dowling

David B. Dowling

Allan Hansen

Allan Hansen

Watson Fisher

Watson Fisher